

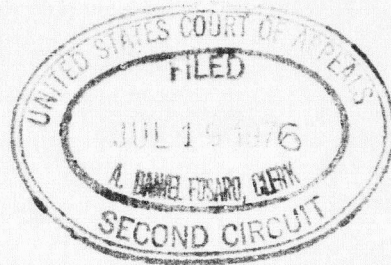
***United States Court of Appeals
for the Second Circuit***



**SUPPLEMENTAL
BRIEF**

76-7052

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT



NELSON BUNKER HUNT, W. HERBERT
HUNT and LAMAR HUNT,

Plaintiffs-Appellants,

-against-

MOBIL OIL CORPORATION, TEXACO INC.,
STANDARD OIL COMPANY OF CALIFORNIA,
THE BRITISH PETROLEUM COMPANY, LTD.,
SHELL PETROLEUM COMPANY, LTD., EXXON
CORPORATION and GULF OIL CORPORATION

Defendants-Appellees.

Appeal from a Judgment of the United States
District Court for the Southern District of New York

SUPPLEMENTAL BRIEF OF DEFENDANTS-APPELLEES

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Inside of Front Cover

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-against-

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COMPANY, LTD., EXXON CORPORATION and GULF
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SUPPLEMENTAL BRIEF OF DEFENDANTS-APPELLEES

The Recent Decision Of The United States
Supreme Court in Alfred Dunhill Reaffirms
The Validity Of The Act of State Doctrine

Since the filing of the brief of the Defendants-
Appellees, the case of Alfred Dunhill of London, Inc. v. Cuba,
44 U.S.L.W. 4665 (U.S. May 24, 1976), has been decided by the

United States Supreme Court. This case reaffirmed the validity of the act of state doctrine (Id. at 4668 and 4673), but held that the statement of counsel during trial that the Cuban Government denied liability was no proof of an act of state, and no statute, decree, order, or resolution of the Cuban Government was offered in evidence indicating Cuban repudiation of its obligation. The opinion of the Court also held that the act at issue was purely commercial in nature, and "that the concept of an act of state should not be extended to include the repudiation of a purely commercial obligation owed by a foreign sovereign or by one of its commercial instrumentalities" (Id. at 4669). While pointing out that lower courts in this country and courts of other countries have adopted this "restrictive [commercial] theory," the Court emphasized that there was no such "consensus as to the rules of international law concerning exercises of governmental powers, including military powers and expropriations, within a sovereign state's borders affecting the property or persons of aliens" (Id. at 4672).

The dissenting opinion also reaffirmed the act of state doctrine, and took the position that Cuba's refusal to recognize its obligation constituted an act of state (and not a commercial act) and for that reason Dunhill should not recover (Id. at 4673, 4678, 4680).

Thus, all nine Justices, in Dunhill, reaffirmed the act of state doctrine as delineated in Underhill v. Hernandez, 168 U.S. 250, 252 (1897), and reaffirmed in Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964), namely, that the act of state doctrine precludes the courts of this country from inquiring into governmental acts of a foreign sovereign committed within its own territory, particularly into conventional expropriations of foreign assets located inside a country's territorial borders (see p. 4670, fn. 11).

Conclusion

For all of the foregoing reasons, and for the reasons set forth in their principal brief, Defendants-Appellees submit that the decision of the District Court dismissing the Third Claim of the complaint was correct and should be affirmed.

Respectfully submitted,

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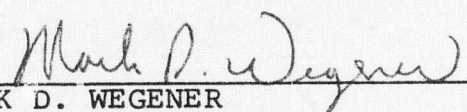
By /S/ Edward F. Howrey
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CERTIFICATE OF SERVICE

I hereby certify that on or before the 8th day of July 1976, I served the Supplemental Brief of Defendants-Appellees upon the plaintiffs and upon the other defendants by depositing a copy in the United States mail, postage prepaid, addressed to the attorneys for the other defendants and to the following attorneys for plaintiffs:

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